

**JUDICIAL COUNCIL OF THE SIXTH CIRCUIT**  
**MICHIGAN-OHIO-KENTUCKY-TENNESSEE**

In re:  
Complaint of Judicial Misconduct

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\*No. 06-18-90024  
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**MEMORANDUM AND ORDER**

This complaint of judicial misconduct was filed by **[REDACTED]** (“complainant”) against the Honorable **[REDACTED]** (“subject judge”), pursuant to 28 U.S.C. § 351. The complaint alleges that the subject judge conspired to deprive the complainant of his civil rights by dismissing his prior complaint of judicial misconduct.

This matter was referred to the undersigned pursuant to 28 U.S.C. § 351(c), which provides that a judicial misconduct complaint against a chief judge be transmitted “to that circuit judge in regular active service next senior in date of commission.” Likewise, Rule 25(f) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings provides that, where a chief judge is disqualified, his duties “must be assigned to the most-senior active circuit judge not disqualified.”

After conducting an initial review, the chief judge may dismiss a misconduct complaint as to which he concludes: (A) that the claimed conduct, even if it occurred, “is not prejudicial to the effective and expeditious administration of the business of the courts”; (B) that the complaint “is directly related to the merits of a decision or procedural ruling”; (C) that the complaint is “frivolous,” a term that applies to charges that are wholly unsupported; or (D) that the complaint “lack[s] sufficient evidence to raise an inference that misconduct has occurred.” Rule 11(c)(1)(A)-(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings; see 28 U.S.C. § 352(a), (b).

An initial review of the record reveals that the complainant filed a judicial-misconduct complaint—his second against the judge named therein—in 2017. The subject judge ordered that the complaint be dismissed because it was merits-related and because its allegations of bias were unsupported by the record.

This latest misconduct complaint is subject to dismissal for the same reasons. It is subject to dismissal under Rule 11(c)(1)(B) because it is directly related to the merits of the subject judge’s order dismissing the prior misconduct complaint. See *also* 28

U.S.C. § 352(b)(1)(A)(ii). Any challenge to the merits of a judge's ruling, including an order dismissing a judicial-misconduct complaint, is outside the scope of judicial-misconduct proceedings. See Rule 3(h)(3)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The complaint is subject to dismissal under Rule 11(c)(1)(C) because its allegation that the subject judge conspired to deprive the complainant of his civil rights is entirely unsupported by the record. See *also* 28 U.S.C. § 352(b)(1)(A)(iii).

Accordingly, it is **ORDERED** that the complaint be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) & (iii) and Rule 11(c)(1)(B) & (C) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Entered as Chief Judge Pursuant  
to 28 U.S.C. § 351(c)

A handwritten signature in black ink, appearing to read 'Alice M. Batchelder', written in a cursive style.

Alice M. Batchelder

Date: August 15, 2018